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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
Civil Action No. 09-799

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JOEL SPENCER
U.S. Magistrate Judge

In Regard to the Matter of:

Bayside State Prison
Litigation

ALPHONSO BRADSHAW

OPINION/REPORT
OF THE
SPECIAL MASTER

-VS-

WILLIAM H. FAUVER, et al,
Defendants.

* * * *

WEDNESDAY, SEPTEMBER 29, 2010

* * * *

BEFORE THE HONORABLE JOHN W. BISSELL, SPECIAL MASTER

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5 Transcript of proceedings in the above
6 matter taken by Theresa O. Kugler, Certified Court
7 Reporter, license number 30X100085700, and Notary
8 Public of the State of New Jersey at the United
9 States District Court House, One Gerry Plaza, Camden,
10 New Jersey, 08102, commencing at 10:00 AM.
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18

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21 251 South White Horse Pike
22 Audubon, New Jersey 08106
23 856-546-1100
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25

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A P P E A R A N C E S:

JAIME KAIGH, ESQUIRE
32 NORTH BLACK HORSE PIKE
BLACKWOOD, NEW JERSEY 08012
856-232-3337
856-232-4561
ATTORNEYS FOR THE PLAINTIFFS

RODNEY D. RAY, ESQUIRE
32 NORTH BLACK HORSE PIKE
BLACKWOOD, NEW JERSEY 08012
856-232-3337
856-232-4561
ATTORNEYS FOR THE PLAINTIFFS

ROSELLI, GRIEGEL, LOZIER & LAZZARO, PC
BY: MARK ROSELLI, ESQUIRE
and
BY: JAMES LAZZARO, ESQUIRE
1337 STATE HIGHWAY 33
HAMILTON SQUARE, NEW JERSEY 08690
609-586-2257
ATTORNEYS FOR THE DEFENDANTS

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1 JUDGE BISSELL: All right. Thank you.

2 I am prepared to accept for purposes of this motion
3 that Mr. Bradshaw has truthfully and accurately
4 reflected what happened to him. In observing him as
5 we have on television, I find absolutely nothing
6 about his demeanor that would indicate that his
7 testimony is not credible.

8 Furthermore, it is not essential or
9 necessary for me to make findings with regard to that
10 credibility. Rule 52(c) of the Federal Rules of
11 Civil Procedure under which this motion is brought is
12 relatively brief and I will recite it at this time.

13 It says: "If during a trial without a
14 jury a party has been fully heard on an issue and the
15 Court finds against the party on that issue, the
16 Court may enter judgment as a matter of law against
17 that party with respect to a claim or defense that
18 cannot, under the controlling law, be maintained or
19 defeated without a favorable finding on that
20 issue..."

21 Now, in this particular instance Judge
22 Kugler's decision and my own, taken in tandem,
23 require the identification of at least one defendant
24 against whom a judgment could be entered.
25 Mr. Bradshaw has indicated that he has been unable to

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1 identify any person who perpetrated these assaults
2 upon him. Under those circumstances, therefore, any
3 liability which might attach to any defendant would
4 depend upon whether the supervisors enumerated by Mr.
5 Roselli, Messrs. Fauver, Faunce and Hilton can be
6 held liable for the events in question.

7 I have already issued a decision with
8 regard to supervisory liability which, as far as I
9 understand, remains valid. I have not been advised
10 this has been overturned and modified by Judge Kugler
11 or anyone else. In the course of that decision and
12 determining where supervisory liability should lie
13 based upon the conduct of others subject to that
14 supervision, I did reach a conclusion that because,
15 among other things, the inherent characteristics of
16 the manner in which the lockdown was implemented cast
17 supervisory liability on, once again, upon the
18 defendant supervisors. Necessarily when that
19 lockdown period was concluded, that important element
20 of the supervisory liability finding was no longer
21 present. I made a determination at that time,
22 consistent with the facts, that the period of the
23 lockdown was concluded on the 3rd of September, 1997.
24 That was at least one week and in all likelihood
25 two weeks before Mr. Bradshaw even arrived at

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1 Bayside, and an additional week before the assaults
2 which he described took place. Under those
3 circumstances, therefore, there is no basis to
4 ascribe supervisory liability to any defendant in
5 that group and, therefore, no named defendant can be
6 identified here against whom a judgment could be
7 entered.

8 Accordingly, the motion is granted and
9 this case is dismissed for the reasons stated above.

10 I'm asking my court reporter, if she
11 would, please, to prepare a draft transcript of this
12 opinion under Local Civil Rule 52.1 for my review and
13 editing as the local rule permits.

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C E R T I F I C A T E

I, Theresa O. Kugler, a Notary Public and
Certified Shorthand Reporter of the State of New
Jersey, do hereby certify that the foregoing is a
true and accurate transcript of the testimony as
taken stenographically by and before me at the time,
place, and on the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a
relative nor employee nor attorney nor counsel of any
of the parties to this action, and that I am neither
a relative nor employee of such attorney or counsel,
and that I am not financially interested in the
action.

Theresa O. Kugler, C.C.R.
Notary Public, State of New Jersey
My Commission Expires May 5, 2011
Certificate No. XI0857
Date: September 29, 2010

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